REMARKS

Claims 5-9 and 12-42 are pending in the present application. Claims 5, 8 and 9 have been amended to further clarify that which was previously claimed. New Claims 30-42 were added to claim additional subject matter. Support for the claim amendments is in at least paragraphs [0029], [0030], [0034]-[0036], [0044], [0051] and [0054] of the specification. No new matter has been added. Further examination and a notice of allowance are respectfully requested.

Claim Rejections pursuant to 35 U.S.C. §102 and 35 U.S.C. §103(a)

Claims 5, 7 and 8 were rejected pursuant to 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,658,247 to Saito (hereinafter "Saito"). In addition, Claims 6, 9 and 12-29 were rejected pursuant to 35 U.S.C. §103(a) as being obvious in view of the combination of Saito and U.S. Patent No. 7,016,706 to Kurokawa (hereinafter "Kurokawa"). Applicant respectfully traverses these rejections since each and every limitation of the presently pending claims are not described or suggested by Saito or Kurokawa alone or in combination.

Claims 5-6 and 29

Amended Claim 5 describes processing means for detecting one of a predetermined set of events that cause operation of an application program to suspend, the processing means operable to generate event data indicative of a cause of the suspension of the application program. On page 3 of the office action mailed June 19, 2007, it was asserted that load counter N of Saito anticipated these limitations. However, Applicant respectfully traverses this assertion, since Saito describes that the load counter N is representative of the number of blocks of music data received while a desired music title is being downloaded to a telephone terminal by a user. (Col. 4 lines 43-55) Clearly, a representation of a number of blocks of music data received as described by Saito is not event data indicative of a cause of suspension of an application program as described in Claim 5. To the contrary, a number of blocks of data downloaded as described by Saito has no bearing on an indication of a cause of suspension of an application program.

Claim 29 describes display means for displaying information to a user, the display means operable to display a message related to the cause of the suspension, the resumed application

program operable to generate the message in response to receipt of the delivered stored event data. On page 9 of the office action, it was asserted that the combination of Saito and Kurokawa describes such limitations since Kurokawa describes display of a "end of call" message. However, Claim 29 specifically describes that it is the resumed application program that is operable to generate the message in response to receipt of the delivered stored event data. In sharp contrast, Kurokawa describes suspension of reproduction of moving picture data by display of a still image of the moving picture and also display of call reception information when a call is received. (Col. 14 lines 5-9) Accordingly, Kurokawa describes that when a call ends, and the "end of call" message is displayed, the still image of the moving picture is still being displayed. It follows that Kurokawa fails to describe, and actually teaches away from <u>a resumed application program operable to generate a message</u>, since Kurokawa's moving picture image remains suspended as a still image at the time the "end of call" message is displayed. (Col. 13 lines 6-9)

Thus, not only is Kurokawa completely silent regarding generation <u>with a resumed application program</u> of a message, but also, Kurokawa does not describe such a message is generated <u>in response to receipt of delivered stored event data</u> as also described in Claim 29. To the contrary, Kurokawa clearly describes that Kurokawa's control section generates an "end of call" message when a call end key is depressed by the user, or the party at the other end has performed a call finishing operation. (Col. 13 lines 1-5) Clearly, an indication that a call has ended is not delivered stored event data as described in Claim 29.

<u>Claim 8</u>

Amended Claim 8 describes generating event data indicative of a cause of suspension of the application program. On page 4 of the office action mailed June 19, 2007, it was apparently asserted that downloading of bits of music data to equal a data amount of one block of music data, and incrementing the load counter N as described by Saito (Col. 5 lines 8-23) is equivalent. Applicant respectfully traverses this assertion not only because Saito's load counter N is simply an incrementing counter to provide a download start position when a mobile terminal interrupts downloading a program to switch to a control channel and check for an incoming call, but also because load counter N is not in any way indicating <u>a cause of suspension</u> of the application program.

Claims 9-28

Amended Claim 9 describes instructions stored in the memory to store event data indicating the cause of suspension of the application. On page 5 of the office action mailed June 19, 2007 it was asserted that Saito's load counter N was equivalent. Applicant respectfully traverses this assertion since Saito's load counter does not indicate a cause of suspension of an application, but rather indicates a number of blocks of music data that were received by a portable telephone terminal. Thus, it follows that Saito also does not teach or suggest instructions stored in the memory to extract the stored event data, since the cited portions of Saito simply describe checking the value of the load counter, which is clearly not extraction of event data.

Moreover, Claim 9 also describes instructions stored in the memory to generate a message with the resumed application that notifies a user of the first predetermined event. On page 6 of the office action mailed June 19, 2007, it was asserted that Kurokawa's display of an end of call message by Kurokawa's control section was equivalent. As previously discussed, Kurokawa describes suspension of a moving picture reproduction when a call is received, followed by display of an end of call message when a call is ended while the moving picture reproduction remains suspended, followed by resumption of the moving picture reproduction. Since Kurokawa describes that the end of call message is displayed before the moving picture reproduction is resumed, Kurokawa cannot possibly describe generation of a message with a resumed application as described in Claim 9.

Claim 13 describes instructions stored in memory to generate a query to a user to launch another application to attend to the first predetermined event. On page 6 of the office action mailed June 19, 2007, it was asserted that Kurokawa's display of receipt of a call was equivalent. However, elements 6d and 6h of Kurokawa describe receipt of a call during reproduction of moving picture data. In sharp contrast, Claim 13 describes instructions to generate a message with a resumed application following suspension and resumption of the application, which is clearly not the case in Kurokawa since Kurokawa describes at 6d in Figure 6 that the moving picture reproduction is stopped, but not resumed prior to the call start process of 6h in Figure 6 of Kurokawa.

Claim 16 describes that the first predetermined event comprises receipt of an email of a call request. Figures 8 and 9 of Kurokawa, on the other hand, although asserted on page 6 of the

office action mailed June 19, 2007 to describe such limitations, describe only receipt of a call, and are completely silent regarding receipt of an email. Claim 17 describes receipt or transmission by the terminal device of data via a short range transmission. Applicant respectfully traverses the assertion on page 6 of the office action mailed June 19, 2007 that Kurokawa's description of a PDA having "a communication function over a mobile communication system with a connection to a mobile radio terminal or a communication card" is a short range transmission. To the contrary, Kurokawa clearly describes that any receipt of transmission is over a mobile communication system, which is not via a short range transmission.

Claim 19 describes storage of event data and instructions stored in the memory to provide notification of the events that occur while the application is suspended, when execution of the application is resumed. Applicant respectfully traverses the assertion that Kurokawa describes such limitations since Kurokawa fails to describe that any events are notified when an application is resumed, and instead describes display of a end of call message that occurs prior to resumption of a suspended moving picture, as previously discussed. Claim 21 describes the second predetermined event comprises expiration of a determined time period. On page 7 of the office action mailed June 19, 2007, it was asserted that "Kurokawa obviously teaches" such limitations "since notification of an incoming call only occurs for a specified period of time before the call is directed to voicemail." However, Kurokawa fails to mention or be concerned with voicemail, and clearly describes that when a user does not answer an incoming call, the non-answered call is displayed when the moving picture reproduction is completed. (Col. 14 lines 50-54 and Fig. 6A) Thus, contrary to the assertions in the office action, Kurokawa not only fails to teach or suggest, but actually teaches away from expiration of a determined period of time as described in Claim 21.

Claim 23 describes instructions stored in the memory to, during the suspension, maintain application related data in volatile memory that was input by a user prior to the suspension. On page 8 of the office action mailed June 19, 2007, it was asserted that step S9 of Figure 2A of Saito described such limitations, however, Saito is describing selection of a music title, which Saito clearly describes is selected from a music server, downloaded, and stored in memory. (Col. 3 lines 46-53) Clearly, interaction with a web server does not explicitly or inherently describe storage of a music title as is apparently being asserted. To the contrary, Saito is completely silent on storage of any application related data in volatile memory that was input by a user as described in Claim 23, in sharp contrast to the assertions in the office action mailed June 19, 2007. A statement in the

prior art "that gives only general guidance and is not at all specific as to the particular form of the claimed invention and how to achieve it" does not provide sufficient teaching, motivation or suggestion to render a claim obvious. *See* Ex parte Obukowicz, 27 USPQ2d 1063, 1065 (BPAI 1992). As a result, while a generalized suggestion may "make an approach 'obvious to try'," a generalized suggestion without specific guidance how to achieve the invention "does not make the invention obvious." *See* id. In Saito, not only is there a lack of any generalized suggestion, but also any discussion of storage of anything in volatile memory is completely absent. Page 8 of the office action also asserts that Kurokawa describes such limitations, however the cited portions of Kurokawa simply describe ROM and RAM without any teaching or suggestion that application related data that was input by a user prior to the suspension is maintained in volatile memory during the suspension. To the contrary, Kurokawa is completely silent on storage of any form of data that is input by a user prior to suspension.

Claim 24 describes instructions stored in memory to maintain the suspended application in volatile memory during the suspension. On page 8 of the office action mailed June 19, 2007, it was asserted that Saito and Kurokawa described such limitations, however neither the cited portion of Saito nor Kurokawa teach or suggest maintaining a suspended application in volatile memory during suspension. To the contrary, Saito describes storage of a counter value, and Kurokawa is silent regarding maintenance of a suspended application in memory.

Claim 25 describes instructions stored in memory to store event data related to suspension of the application comprises instructions stored in memory to set an event flag indicative of the first predetermined event. On page 8 of the office action mailed June 19, 2007, it was asserted that "Saito in view of Kurokawa obviously teaches instructions stored in memory to set an event flag indicative of the first predetermined event." It was further asserted that "[t]he setting and erasing of flags, registers & counters in computer systems are well known in the art and would be considered a design choice as to how the programmer decides to implement the specific notification within the computer memory." Firstly, Applicant respectfully traverses that either Saito or Kurokawa teach or suggest setting an event flag indicative of a predetermined event as evidenced by the total absence of any discussion of storage of event data related to suspension of an application that is indicative of a predetermined event in either Saito or Kurokawa. To the contrary, the cited portion of Saito describes advancing and resetting of a bit counter and a load counter, and the cited portion of Kurokawa simply describes storing data related to a missed call.

Clearly neither Kurokawa nor Saito are concerned with, nor teach or suggest storage of event data comprising the setting of an event flag indicative of a predetermined event as described in Claim 25.

In addition, in most cases, evidence should be provided on the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 Moreover, it is never appropriate for an examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. Further, "[i]f such notice is taken, the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." MPEP 2144.04(b) see also *Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241.

Applicant respectfully traverses the assertions of what is "well known in the art" in the context of a terminal device and storage of event data comprising the setting of an event flag indicative of a predetermined event as described in Claim 9, as evidence by the lack of any teaching, suggestion or disclosure of such limitations in any of the cited references. Applicant further asserts that it is not simply the concept of a flag that is the subject of Claim 9, but rather storage of event data comprising the setting of an event flag indicative of the first predetermined event as described in Claim 9. Accordingly, pursuant to MPEP 2144.03(c), Applicant respectfully requests production of an authority to support the assertions that storage of event data comprising an event flag indicative of a predetermined event as described in Claim 9, are well known with respect to detection of a first predetermined event in a predictive analysis due to the lack of any indication of such limitations in the cited references and Applicant's lack of knowledge of such an authority.

Claim 26 describes storage of an indicator of a first predetermined event and an identifier of the suspended application in a table. Contrary to the assertions on page 8 of the office action mailed June 29, 2007, not only does Kurokawa fail to teach or suggest a table, but very clearly fails to describe storage of an indicator and an identifier of a suspended application in such a table. To the contrary, the cited portions of Kurokawa describe storage of call related information, and

are completely silent on an identifier for a suspended moving picture data or storing such an identifier in a table with call related information.

Claim 27 describes storage of an application in volatile memory when launched and maintenance of the application in volatile memory when the application is suspended. Contrary to the assertions on page 8 of the office action mailed June 19, 2007, neither Saito nor Kurokawa teach or suggest such limitations. To the contrary, both Saito and Kurokawa are concerned with storage in memory of downloaded content, not an application that is launched and suspended as described in Claim 27. Claim 28 describes that stored event data indicating the cause of suspension is deleted when the application is resumed. On page 9 of the office action mailed June 19, 2007, counter values were asserted as equivalent. Clearly, counter values are not equivalent to event date indicating a cause of suspension, and neither Saito nor Kurokawa teach or suggest the limitations of Claim 28. Moreover, even if Saito or Kurokawa described such counters, neither Saito nor Kurokawa teach or suggest the data in such counters are deleted when an application is resumed. To the contrary, Saito describes that a load counter is maintained throughout the music download process (Col. 5 lines 55-60), and Kurokawa is completely silent on any form of counter.

For at least the previously discussed reasons, independent Claims 5, 8, and 9 and the claims dependent therefrom are not taught, suggested, or disclosed by the cited references. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(e) and 35 U.S.C. §103(a) rejections of the presently pending Claims.

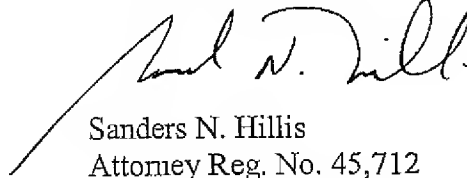With this amendment and response, Applicant believes that the present pending claims of this application are allowable, and respectfully requests the Examiner to issue a Notice of Allowance for this application.   Should the Examiner deem a telephone conference to be beneficial in expediting allowance/examination of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Respectfully submitted,

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